



313406

STATE OF INDIANA ) IN THE VANDERBURGH SUPERIOR COURT  
 ) SS:  
 COUNTY OF VANDERBURGH ) CAUSE NO. \_\_\_\_\_

COMMISSIONER, INDIANA )  
 DEPARTMENT OF ENVIRONMENTAL )  
 MANAGEMENT, )

Petitioner, )

v. )

MILLER PLATING and METAL )  
 FINISHING, INC. )

Respondent. )

**VERIFIED PETITION FOR CIVIL ENFORCEMENT, COMPLAINT FOR  
 PRELIMINARY AND PERMANENT INJUNCTION, AND FOR CIVIL PENALTIES**

The Petitioner, the Commissioner of the Indiana Department of Environmental Management ("IDEM"), by counsel, Steve Carter, Attorney General of Indiana, through his Deputy, Valerie Tachtiris, hereby files this Verified Petition for Civil Enforcement, Complaint for Preliminary and Permanent Injunction, and for Civil Penalties against the Respondent, Miller Plating and Metal Finishing, Inc. ("Miller Plating"), seeking to enjoin Miller Plating from further violation of IDEM's statutes and rules concerning hazardous waste and wastewater including: failure to perform hazardous waste determinations, improper hazardous waste container labeling and dating, failure to provide adequate aisle space, maintaining containers in poor and leaking condition, containers stored open, incompatible wastes stored together, waste stored in incompatible containers, storage of wastes for more than ninety (90) days, failure to follow proper safety procedures, failure to conduct inspections, failure to comply with training and reporting rules, and causing and/or threatening to cause releases to the environment, at Miller Plating electroplating facility, 1551 Allen Lane, Evansville, Vanderburgh County, Indiana ("the

Site”), and affirmatively requiring Miller Plating to expeditiously comply with the 2005 Agreed Order; separate incompatible wastes, properly manage waste containers, properly remove from the Site waste stored over ninety (90) days; complete a waste determination, provide for adequate aisle space; comply with safety, training, and reporting regulations; commence weekly inspections; take immediate steps to prevent leaks; complete a site assessment plan; complete RCRA closure for hazardous waste storage areas; and cease all other violations of IDEM’s hazardous waste and wastewater regulations. In addition, IDEM seeks an order requiring Miller Plating to pay to IDEM statutory civil penalties for violations of the State’s environmental statutes and rules. In support thereof, the Petitioner states:

1. IDEM is an agency of the State of Indiana. Ind. Code § 13-13-1-1 *et seq.*

IDEM’s mailing address is 100 North Senate Avenue, Indianapolis, Indiana 46204.

2. Miller Plating & Metal Finishing, Inc. operates an electroplating facility at the Site. The Respondent’s mailing address for the purposes of service of process is as follows:

Miller Plating & Metal Finishing, Inc.  
Dan A. Stocks, Registered Agent  
7288 Shady Oak Drive  
Newburgh, IN 47630

3. This Court has jurisdiction over the Respondent and the subject matter of this action because the Site is located in Vanderburgh County.

4. IDEM may proceed in court, by appropriate action, to, among other things, procure or secure compliance with Title 13 of the Indiana Code or any law that IDEM has the duty and power to enforce. Ind. Code § 13-14-2-6. Additionally, under Ind. Code § 13-30-1-1, the Indiana Attorney General may bring an action for declaratory and equitable relief in the name of the State against an individual or other entity for the protection of the environment of Indiana from significant pollution, impairment, or destruction. The Court may grant temporary and

permanent equitable relief or impose conditions upon the respondent that are required to protect the environment from pollution, impairment, and destruction. Ind. Code § 13-30-1-11. Also, a person who violates any provision of the environmental management laws or rules of the State is liable for a civil penalty not to exceed twenty-five thousand dollars (\$25,000) per day of any violation. Ind. Code § 13-30-4-1(a). IDEM may recover the civil penalty in a civil action commenced in any court with jurisdiction and request in the action that the person be enjoined from continuing the violation. Ind. Code § 13-30-4-1(b).

5. Pursuant to Indiana Code 4-21.5-6-1 the Department "may apply for a court order in the circuit or superior Court to enforce an [administrative] order."

6. IDEM alleges that Miller Plating is liable for current and ongoing violations of several environmental laws and rules of the State of Indiana and for violating an Agreed Order. On November 14 and 18, 2002, IDEM inspected the Site and found multiple violations of the state's environmental laws and rules. A true and accurate copy of the November 14 and 18, 2002 inspection report with its accompanying photographs is attached as Exhibit A. An Agreed Order was entered into on February 4, 2005. A true and accurate copy of the Agreed Order is attached as Exhibit B. On June 29, 2006, IDEM inspected the Site and found that the violations had not been corrected and Miller Plating had not complied with the terms of the Agreed Order. A true and accurate copy of the June 29, 2006 inspection report with its accompanying photographs is attached as Exhibit C. On August 16, 2006, IDEM inspected the site and found additional wastewater and ongoing hazardous waste violations. A true and accurate copy of the August 16, 2006 inspection report with its accompanying photographs is attached as Exhibit D.

7. Miller Plating has violated and continues to violate several statutory and regulatory requirements meant to protect public health and the environment. 329 IAC 3.1-7-1

incorporates all federal standards applicable to generators of hazardous waste described at 40 CFR 262.329 IAC 3.1-10-1 further incorporates the federal interim status standards for owners and operators of hazardous waste treatment, storage, and disposal facilities described at 40 CFR 265. Miller Plating has violated the following sections of 40 CFR 262 and 40 CFR 265, and thus Indiana law:

- (a) Pursuant to 40 CFR 262.11, a person who generates a solid waste must determine if that waste is a hazardous waste. Miller Plating has not made a proper waste determination, or can not identify the contents of multiple containers. See pages 5 and 6 of the June 29, 2006 inspection report.
- (b) Pursuant to 40 CFR 262.34 (a)(2), a generator may accumulate hazardous waste in containers on-site for 90 days or less, provided that the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container. At the time of the June 29, 2006 inspection, multiple hazardous waste containers, located throughout the facility, were not dated. See pages 5 and 6 of the June 29, 2006 inspection report.
- (c) Pursuant to 40 CFR 262.34 (a)(3), a generator may accumulate hazardous waste in containers on-site for 90 days or less, provided that each container is labeled or marked clearly with the words "Hazardous Waste." At the time of the June 29, 2006 inspection, five (5) 5-gallon containers said to contain "Tri acid sludge" were not marked with the words "Hazardous Waste." See pages 5 and 7 of the June 29, 2006 inspection report.
- (d) Pursuant to 40 CFR 262.34 (a) and (b), a generator may accumulate hazardous waste on-site for 90 days or less without a permit or interim status. A

generator who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of 40 CFR parts 264 and 265 and the permit requirements of 40 CFR part 270 unless he has been granted an extension to the 90-day period. At the time of the June 29, 2006 inspection, forty-six (46) hazardous waste containers were marked with start-of-accumulation dates indicating storage on-site for more than 90 days. See pages 5 and 7 of the June 29, 2006 inspection report. Miller Plating has not been granted an extension.

(e) Pursuant to 40 CFR 262.34 (a)(4) / 265.31, facilities must be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment. The Site is not managed to minimize the possibility of fire, explosion, or release of hazardous waste or hazardous waste constituents, as evidenced by the number of containers that were unidentified, leaking or in poor condition, and stored with incompatible materials. See pages 5 and 7 of the June 29, 2006 inspection report.

(f) Pursuant to 40 CFR 262.34 (a)(4) / 265.34 (a), whenever hazardous waste is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation must have immediate access to an internal alarm or emergency communication device. Miller Plating personnel do not have immediate access to an alarm or communication device in Building 4 or the Parts Storage Building. See pages 5 and 8 of the June 29, 2006 inspection report.

- (g) Pursuant to 40 CFR 262.34 (a)(4) / 265.35, the owner or operator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency. At the time of the June 29, 2006 inspection, there was not adequate aisle space to allow unobstructed movement of personnel (or equipment) in Building 4 and the Parts Storage Building. See pages 5 and 8 of the June 29, 2006 inspection report.
- (h) Pursuant to 40 CFR 262.34 / 265.171, if a container holding hazardous waste is not in good condition, or if it begins to leak, the owner or operator must transfer the hazardous waste from this container to a container that is in good condition, or manage the waste in some other way that complies with the requirements of this part. At the time of the June 29, 2006 inspection, eight (8) hazardous waste containers were leaking or not in good condition. See pages 5 and 8 of the June 29, 2006 inspection report.
- (i) Pursuant to 40 CFR 262.34 / 265.172, the owner or operator must use a container made of or lined with materials which will not react with, and are otherwise compatible with, the hazardous waste to be stored, so that the ability of the container to contain the waste is not impaired. Miller Plating stored hazardous wastes in containers made of incompatible materials, causing the containers to fail. See pages 5 and 8 of the June 29, 2006 inspection report.
- (j) Pursuant to 40 CFR 262.34 / 265.173 (a), a container holding hazardous waste must always be closed during storage, except when it is necessary to add or

remove waste. At the time of the June 29, 2006 inspection, eleven (11) hazardous waste containers were stored open. See pages 5 and 9 of the June 29, 2006 inspection report.

(k) Pursuant to 40 CFR 262.34 / 265.177 (c), a storage container holding a hazardous waste that is incompatible with any waste or other materials stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device. At the time of the June 29, 2006 inspection, incompatible wastes (e.g. cyanide and acids, acids and bases) were being stored in close proximity without a protective barrier. See pages 5 and 9 of the June 29, 2006 inspection report.

(l) Pursuant to 40 CFR 262.34 / 265.174, the owner or operator must inspect areas where containers are stored, at least weekly, looking for leaks and for deterioration caused by other factors. At the time of the June 29, 2006 inspection, weekly inspections of container storage area were not performed. The facility's Weekly Inspection documentation was last completed in November 2004. The condition of the facility indicates that weekly inspections are not performed, or are not done properly. See pages 5 and 9 of the June 29, 2006 inspection report.

(m) Pursuant to 40 CFR 262.34 (a)(4)/ 265.52, the facility must have a contingency plan which contains the following elements: The plan must include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan must describe signal(s) to be

used to begin evacuation, evacuation routes, and alternate evacuation routes.

At the time of the June 29, 2006 inspection, the contingency plan lacked this information. See pages 5 and 9 of the June 29, 2006 inspection report.

(n) Pursuant to 40 CFR 262.34/ 265.16(a)(1), facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirement of this part. Miller Plating does not have a personnel training program that adequately teaches employees to perform their duties in a manner that complies with hazardous waste management requirements. See pages 5 and 10 of the June 29, 2006 inspection report.

(o) Pursuant to 40 CFR 265.16 (c), facility personnel must take part in an annual review of the initial training required in paragraph 265.16 (a). Miller Plating is not in compliance with this requirement. See pages 5 and 10 of the June 29, 2006 inspection report.

(p) Pursuant to 40 CFR 265.16 (d), the owner or operator must maintain the following documents and records at the facility:

- (1) The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job;
- (2) A written job description for each position listed above;
- (3) A written description of the type and amount of both introductory and continuing training that will be given;
- (4) Records that document that the training or job experience required has been given to, and completed by, facility personnel.

Miller Plating is not in compliance with these requirements. See pages 5 and 10 of the June 29, 2006 inspection report.

(q) Pursuant to 40 CFR 262.41 and 329 IAC 3.1-7-14(b), any generator who treats, stores, or disposes of hazardous waste on-site must submit a biennial report covering those wastes in accordance with the provisions of 329 IAC 3.1-9 through 329 IAC 3.1-11 and 329 IAC 3.1-13. Miller Plating failed to include hazardous wastes generated but not shipped off-site on their biennial report. See pages 5 and 10 of the June 29, 2006 inspection report.

8. Miller Plating has also violated and continues to violate Indiana's environmental and wastewater laws meant to protect public health and the environment. A person may not discharge, emit, cause, allow or threaten to discharge, emit, cause, or allow any contaminant or waste, including any noxious odor, either alone or in combination with contaminants from other sources, into the environment in any form that causes or would cause pollution that violates or would violate rules, standards, or discharge or emission requirements adopted by the appropriate board under the environmental management laws. Ind. Code § 13-30-2-1. The corroded nature of the wastewater trenches at Miller Plating threatens to release potentially regulated waste and/or other pollutants into the environment in violation of 327 IAC 2-6.1 and therefore Ind. Code § 13-30-2-1. See the August 16, 2006 inspection report.

9. IDEM alleges that the failure to perform hazardous waste determinations, improper hazardous waste container labeling and dating, failure to provide adequate aisle space, maintaining containers in poor and leaking condition, containers stored open, incompatible wastes stored together, waste stored in incompatible containers, storage of wastes for more than ninety (90) days, failure to follow proper safety procedures, failure to conduct inspections, failure to comply with training and reporting rules, and causing and/or threatening to cause releases to the environment at the Site continue to pose a substantial, immediate, and irreparable

threat to the environment and the public. As is more fully explained in the Memorandum

supporting this complaint, IDEM has reason to believe the Respondent will not correct the violations without Court action. The Respondent has been cited for violations in the past, and has failed to comply with an Agreed Order. See June 29, 2006 Inspection Report at page 2.

These continuing violations and failure to cooperate with IDEM officials indicate a pattern of non-compliance, which must be abated to prevent further actual and potential damage to public health and the environment through an order of this Court for injunctive relief. Unless enjoined by this Court, it is believed that Miller Plating will continue to violate the applicable environmental laws and rules, which will result in immediate and irreparable harm to the air, water, and land in and around the Site, to IDEM, and to the citizens of Indiana.

10. The harm to IDEM, if injunctive relief is not granted, outweighs the harm to Miller Plating if injunctive relief is granted.

11. The interests of the public will be served by granting injunctive relief and there is a strong likelihood that IDEM will prevail on the merits of its Complaint for Preliminary and Permanent Injunction.

12. Preliminary and Permanent Injunctions are necessary to prevent further harm to the environment and to eliminate the possibility that Miller Plating's conduct at the Site could result in permanent, irreparable damage to the environment and the public.

13. Pursuant to Indiana Trial Rule 65(C), IDEM, as a government entity, need not post security to obtain injunctive relief.

14. With this Complaint, IDEM submits its Memorandum in Support of Verified Petition for Civil Enforcement, Complaint for Preliminary and Permanent Injunction, and for Civil Penalties and Costs.

WHEREFORE, the Commissioner of the Indiana Department of Environmental Management respectfully requests that, following a hearing on the Petitioner's Complaint, the Court issue a Preliminary and Permanent Injunction:

- (a) Requiring Miller Plating to, within thirty (30) days of the date of the Court's injunction, complete a waste determination and inventory consistent with the requirements of 40 CFR 262.11.
- (b) Requiring Miller Plating to, within ten (10) days of the date of the Court's injunction, clearly date and label all hazardous waste containers consistent with the requirements of 40 CFR 262.34 (a)(2) and 40 CFR 262.34 (a)(3).
- (c) Requiring Miller Plating to, within thirty (30) days of the issuance of the injunction, submit documentation to IDEM that all containers of hazardous waste have been properly labeled and dated.
- (d) Requiring Miller Plating to, within forty-five (45) days of the date of the Court's injunction, safely remove all hazardous waste containers which have been on the Site for more than ninety (90) days and submit appropriate documentation of the removal to IDEM.
- (e) Requiring Miller Plating to ensure that all work to satisfy requirement (d) is performed in compliance with all applicable federal, state, and local laws and regulations.
- (f) Requiring Miller Plating to, within thirty (30) days of the date of the Court's injunction, minimize the possibility of fire, explosion, or release consistent with 40 CFR 262.34 (a)(4) and 40 CFR 265.31.

- (g) Requiring Miller Plating to, within thirty (30) days of the date of the Court's injunction, provide all personnel immediate access to an alarm or communication device consistent with 40 CFR 262.34 (a)(4) and 40 CFR 265.34 (a).
- (h) Requiring Miller Plating to, within ten (10) days of the date of the Court's injunction, maintain adequate aisle space to allow unobstructed movement of personnel or equipment consistent with 40 CFR 262.34 and 40 CFR 265.35.
- (i) Requiring Miller Plating to, within ten (10) days of the date of the Court's injunction, properly manage all hazardous waste containers that are in poor condition or leaking by over packing such containers or otherwise managing the containers consistent with 40 CFR 262.34 and 40 CFR 265.171.
- (j) Requiring Miller Plating to, within ten (10) days of the date of the Court's injunction, store all hazardous wastes in containers compatible with the hazardous waste to be stored so that the ability of the container to contain the waste is not impaired consistent with 40 CFR 262.34 and 40 CFR 265.172.
- (k) Requiring Miller Plating to, within ten (10) days of the date of the Court's injunction, close all hazardous waste storage containers consistent with 40 CFR 262.34 and 40 CFR 265.173(a).
- (l) Requiring Miller Plating to, within ten (10) days of the date of the Court's injunction, separate all incompatible wastes by means of a dike, berm,

wall, or other device consistent with 40 CFR 262.34 and 40 CFR 265.177(c).

- (m) Requiring Miller Plating to, within ten (10) days of the date of the Court's injunction, commence weekly inspections consistent with 40 CFR 262.34 and 40 CFR 265.174 and submit all weekly inspection documentation to IDEM for a period of one year from the date of the Court's injunction.
- (n) Requiring Miller Plating to, within thirty (30) days of the date of the Court's injunction, include an appropriate evacuation plan in the facility's contingency plan consistent with 40 CFR 262.34 (a)(4) and 40 CFR 265.52
- (o) Requiring Miller Plating to, within thirty (30) days of the date of the Court's injunction, implement an adequate personnel training program that teaches employees to perform their duties in a manner that complies with hazardous waste management requirements and maintain appropriate documentation consistent with 40 CFR 262.34, 40 CFR 265.16(a)(1), 40 CFR 265.16(c), and 40 CFR 265.16(d).
- (p) Requiring Miller Plating to, within thirty (30) days of the date of the Court's injunction, to comply with biennial reporting requirements by amending their latest report to include hazardous waste generated but not shipped off-site and submit complete future biennial reports consistent with 329 IAC 3.1-7-14(b).
- (q) Requiring Miller Plating to, within ten (10) days of the date of the Court's injunction, take immediate steps to determine if the wastewater trenches

and all associated parts described in the August 16, 2006 Inspection Report (See Exhibit D) are leaking and implement measures to repair any leaks and prevent future releases.

- (r) Requiring Miller Plating to within thirty (30) days of the date of the Court's injunction, submit to IDEM a site assessment plan. The purpose of the site assessment plan shall be to conduct sampling and analysis in order to assess potential soil and ground water contamination from the areas of concern which include those areas described as the wastewater trenches and all associated parts and, if necessary, the nature and extent of contamination. The site assessment plan shall be based upon the principles outlined within IDEM's Risk Integrated System of Closure ("RISC") Technical Resource Guidance Document ("TRGD"), dated February 15, 2001, which can be accessed at:

<http://www.IN.gov/idem/land/risc>. In addition, the site assessment plan shall:

- a. Describe and evaluate all areas of potential contamination in and around each area of concern.
- b. Specify the method of determining the number and location of samples to be taken to yield a representative assessment of each area of concern. This method shall be:
  1. random sampling, pursuant to Section 3.4 of Chapter 3 of the TRGD; or

2. directed sampling, pursuant to Section 3.4 of Chapter 3 of the TRGD; and
  3. developed to provide locations and methods of any ground water samples pursuant to Section 3.4 of Chapter 3 of the TRGD.
- c. Specify how the soil samples will be obtained and handled in order to minimize loss of volatile constituents. Respondent may composite samples of non-volatiles (i.e., metals and semi-volatiles), but shall not composite samples of volatiles, pursuant to Section 3.4 of Chapter 3 of the TRGD.
  - d. Specify how the ground water samples will be obtained and describe the sampling procedures.
  - e. Clearly define all sampling and analytical protocols designed to identify hazardous waste or its constituents, pursuant to 40 CFR Part 261, including 40 CFR Part 261 Appendices I, II, III, and VIII. The site assessment plan shall include the method of sample collection, pursuant to "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846. This includes, but is not limited to, sample collection containers, preservatives, and holding times.
  - f. Specify the analytical methods to be used and the method's Estimated Quantitation Limits ("EQLs").

- g. Specify that chain-of-custody of the samples shall be maintained and Quality Assurance and Quality Control ("QA/QC") procedures shall be followed, pursuant to Appendix 2 of the TRGD.
  - h. Include within the site assessment plan a supplemental contingent plan for determining the nature and extent of:
    - 1. soil contamination, as specified in Chapter 4 of the TRGD, in the event that sampling and analysis indicates soil contamination to exist above default residential levels as specified in Table A, Appendix I, of the TRGD; and
    - 2. ground water contamination in the event that sampling and analysis indicates hazardous waste or its constituents are detected in the ground water as specified in Chapter 4 of the TRGD.
  - i. Include within the site assessment plan time frames for its implementation.
  - j. Be approved by IDEM prior to its implementation.
- (s) Requiring Miller Plating to, within fifteen (15) days of receiving notice from IDEM of approval of the site assessment plan, implement it as approved and in accordance with the time frames contained therein.
- (t) Requiring Miller Plating to within fifteen (15) days of obtaining the analytical results, submit said results, including chain-of-custody information, and QA/QC records, pursuant to Appendix 2 of the TRGD, to IDEM.
- (u) Requiring Miller Plating to, if soil or ground water contamination is identified, submit within sixty (60) days subsequent to the completion of the analyses, a

remediation workplan to IDEM for the purpose of remediating all soil and/or ground water contamination. The remediation workplan shall:

- a. In accordance with Chapter 6 of the TRGD, remediate each contaminated area to closure. Closure levels shall be one of the following:
  1. default residential levels, pursuant to Table A, Appendix I, in the TRGD; or
  2. commercial/industrial default values (if appropriate to the facility), pursuant to Table A, Appendix I, in the TRGD. Ground water shall meet residential default values at the property boundary or control; or
  3. closure levels for soil can also be established using the non-default procedures presented in Chapter 7 of the RISC Technical Guide. The alternate cleanup level proposal must document that the constituents left in soil will not adversely impact any other environmental medium (ground water, surface water, or atmosphere) and that direct contact through dermal exposure, inhalation, or ingestion will not result in threats to human health or the environment; or
  4. background levels for metals, pursuant to Section 1.6 of Chapter 1 of the TRGD, and/or the analytical method's estimated quantitation limits ("EQLs") for organics.

- b. Include a soil and/or a ground water sampling and analysis plan to be performed after the cleanup has been performed which verifies that all contamination has been removed.
  - c. Include within the remediation workplan time frames for its implementation.
- (v) Requiring Miller Plating to, within fifteen (15) days of approval by IDEM of the remediation workplan, implement the plan as approved and in accordance with the time frames contained therein.
  - (w) Requiring Miller Plating to, within thirty (30) days of completion of the remedial action conducted pursuant to the remediation workplan, submit to IDEM certification by an independent registered professional engineer that the remedial action has been completed as outlined in the approved remediation workplan.
  - (x) Requiring Miller Plating to, within sixty (60) days of the date of the Court's injunction, submit to IDEM for approval, four (4) copies for a hazardous waste closure plan for the area(s) where hazardous waste was stored for greater than ninety (90) days.
  - (y) Requiring Miller Plating to, within ten (10) days of notice of IDEM's approval of the closure plan, implement the plan as approved and in accordance with the timeframes contained therein.
  - (z) In the event IDEM determines that any plan submitted by Respondent is deficient or otherwise unacceptable, Respondent shall revise and resubmit the plan to IDEM in accordance with IDEM's notice. After three (3)

submissions of such plan by Respondent, IDEM may modify and approve any such plan and Respondent must implement the plan as modified by IDEM.

- (aa) Requiring Miller Plating to comply with the current Agreed Order, issued February 4, 2005, in all respects.

Pursuant to Ind. Trial Rule 65(A)(3), the Petitioners further request that the Court set a prompt hearing in this matter and grant the Petitioners all other just and proper relief in the premises.

**VERIFICATION**

I affirm, under the penalties of perjury, that the foregoing representations are true, to the best of my knowledge and belief.

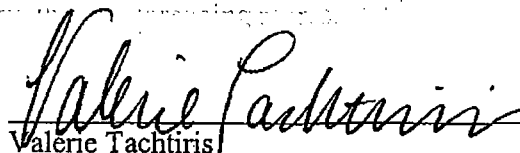


Brenda Lepter, Senior Environmental Manager  
Office of Enforcement  
Indiana Department of Environmental Management

Respectfully submitted,

STEVE CARTER  
Attorney General of Indiana  
Atty. No. 4150-64

By:



Valerie Tachiris  
Deputy Attorney General  
Atty. No. 24421-53

Indiana Attorney General's Office  
Indiana Government Center South, Fifth Floor  
302 West Washington Street  
Indianapolis, IN 46204  
Telephone: (317) 232-6290  
Facsimile: (317) 232-7979